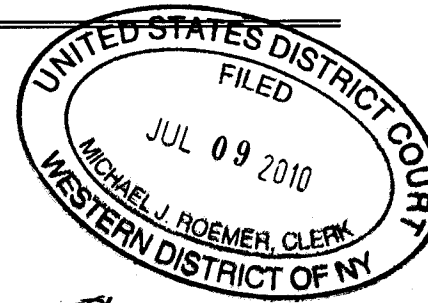


United States District Court
for the
Western District of New York



United States of America)

v.)

Case No. 10-M-1058)

JAMES ALLEN HAMMER)
Defendant)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of July 8, 2010 in the county of Erie in the Western District of New York, the defendant violated Title 18 U.S.C. §§ 2252A(a)(1)(A) & 2252A(a)(5)(B) offense described as follows:

- (1) The defendant, James Allen Hammer, did knowingly and unlawfully transport or ship child pornography, using any means or facility of interstate or foreign commerce or in affecting interstate or foreign commerce, and further;
- (2) The defendant knowingly possessed any film, videotape, computer disk, or any other material that contained an image of child pornography that was produced using materials that have been mailed, or shipped or transported in interstate of foreign commerce by any means, including by computer;

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Matthew J. Dellapenta
Complainant's signature

Matthew J. Dellapenta, Special Agent, ICE

Printed name and title

Sworn to before me and signed in my presence.

Date: July 9, 2010

Jeremiah J. McCarthy
Judge's signature

City and State: Buffalo, New York

Hon. Jeremiah J. McCarthy
United States Magistrate Judge
Printed name and title

A F F I D A V I T

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

MATTHEW J. DELLAPENTA, being duly sworn, depose and state:

1. I am a Special Agent with the Department of Homeland Security, Bureau of Immigration and Customs Enforcement (ICE). I have been employed as a Special Agent since May of 2005. I am currently assigned to the ICE Special Agent in Charge in Buffalo, New York. As part of my daily duties as a Special Agent with ICE, I investigate crimes involving child exploitation and child pornography including violations pertaining to the transportation, production, distribution, receipt, and possession of child pornography, in violation of Title 18, United States Code, Sections 2252 and 2252A. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography in various forms of media including computer media.

2. This Affidavit is made in support of a criminal complaint charging JAMES ALLEN HAMMER (year of birth 1943) with violations of Title 18, United States Code, Section 2252A(a)(1),

(the knowing transportation of any child pornography in or affecting interstate or foreign commerce); and Title 18, United States Code, Section 2252A(a)(5)(B), (the knowing possession of any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer).

3. The statements contained in this Affidavit are based upon information provided to me by ICE Agents, US Customs and Border Protection (CBP) Officers, other law enforcement officers, personnel specifically trained in the seizure and analysis of computers and electronic media, and on my experience and training as an ICE Special Agent. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that JAMES ALLEN HAMMER did knowingly violate Title 18, United States Code, Sections 2252A(a)(1) and 2252A(a)(5)(B).

4. On July 8, 2010, JAMES ALLEN HAMMER was encountered by CBP Officers at the Rainbow Bridge Port of Entry, in the Western District of New York as he applied for admission to the United States from Canada. HAMMER, a United States citizen who resides in Wisconsin, was driving a 2007 Buick Lucerne bearing Wisconsin license plate 31284D and was alone in the car. During his application for admission to the United States, HAMMER was in possession of a Dell Vostro 2510 laptop computer, a blue Dane Elec 2 gigabyte thumb drive, a red Dane Elec 4 gigabyte thumb drive, a Maxtor 500 gigabyte external hard drive, four media storage cards, and 36 CD's/DVD's.

5. The blue Dane Elec 2 gigabyte hard drive has markings indicating it was made in Taiwan. The Dell Vostro 2510 laptop computer has markings indicating it was made in China.

6. Your affiant conducted a border search of the Dell Vostro 2510 laptop computer. Three examples of suspected child pornography discovered on the laptop are as follows:

a. "...Users/jim/AppData/Local/Mozilla/Firefox/Profiles/ln2w2ata.default/Cache/33C6D4D4d01" This image appears to depict an unclothed Caucasian female who is under the age of eighteen years old. The child is on her hands and knees with

her torso facing away and her head turned around to look back. Her legs are separated to the point that her vagina and anus are clearly visible and the focus of the picture. There is an unidentifiable female to the left of the aforementioned child.

b. "...Users/jim/AppData/Local/Mozilla/Firefox/Profiles/1n2w2ata.default/Cache/ABFD8B64d01" This image appears to depict a partially clothed Caucasian female who is under the age of eighteen years old. The child is positioned on her hands and feet with her chest facing upward. The child is wearing a green colored paisley dress that is pushed up above her waist. She is also wearing red and white underwear that is pushed down toward her knees. The child's legs are spread apart to the point that her vagina is clearly exposed.

c. "...Users/jim/AppData/Local/Mozilla/Firefox/Profiles/1n2w2ata.default/Cache/4848A404D01" This image appears to depict a partially clothed Caucasian female under the age of eighteen years old, wearing a white shirt and grey skirt pushed up exposing her anus cheeks. The child is positioned face down on a love seat, her right leg is off the front of the love seat and an unclothed adult Caucasian male with an erect penis is sitting on her left leg with his right hand in contact with the child's exposed anus.

7. Your affiant conducted a border search of the blue Dane Elec 2 gigabyte hard drive. More than 2,000 images of suspected child pornography were discovered on the blue Dane Elec 2 gigabyte hard drive. Two images of child pornography discovered on the blue Dane Elec 2 gigabyte hard drive are as follows:

a. "Only-nude-cuties/2_1_33473c899a746da" This image displays what appears to be an unclothed prepubescent Caucasian female lying on her back holding her legs up with her hands on the backs of her knees. Her legs are positioned so that her genitals are clearly exposed.

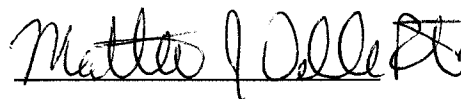
b. "Images/kdz" This image displays what appears to be a toddler-aged Caucasian female. The unclothed child is standing with her hands on her hips and her genitals clearly exposed.

8. A National Crime Information Center query was conducted for JAMES ALLEN HAMMER which resulted in information that HAMMER is a registered sex offender in the state of Wisconsin.

9. JAMES ALLEN HAMMER agreed to waive his Miranda Rights and consented to an interview. During the interview, HAMMER made statements that in 2002, he was convicted for sexual conduct with his daughter dating back to contact that occurred

when she was approximately five to seven years old. HAMMER also made statements that the Dell Vostro 2510 laptop computer belongs to him, it was purchased new, it is password protected, and that no one else uses it or has the password.

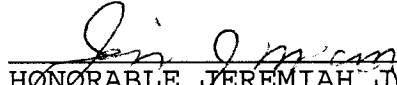
WHEREFORE, I respectfully submit the foregoing to establish probable cause to believe that on or about July 8, 2010, JAMES ALLEN HAMMER did violate Title 18, United States Code, Section 2252A(a)(1), knowing transporting child pornography in interstate or foreign commerce and Title 18, United States Code, Section 2252A(a)(5)(B), possession of child pornography.



MATTHEW J. DELLAPENTA
Special Agent
US Immigration and
Customs Enforcement

Sworn to me before this 9TH

day of July 2010.



HONORABLE JEREMIAH J. MCCARTHY
United States Magistrate Judge